

Prevention and Management of potential Conflicts of Interest for members of ECHA bodies

1. Purpose

This procedure describes the duties of members of ECHA bodies to declare all competing interests held by them and for the chairpersons of the respective ECHA bodies to assess those competing interests and to put in place effective controls and to impose mitigating measures where such interests carry a risk of turning into conflicts of interest.

2. Scope

This Procedure document (*adopted by the Management Board on 21 June 2023: Management Board Decision 19/2023, reference document MB/19/2023 final*) applies to all members, including co-opted and alternate members of the ECHA bodies, including the Board of Appeal.

For the specific groups below, the general principles of this procedure equally apply, but adaptations are made in view of their specific mandate:

Advisers and invited experts

The REACH Regulation provides that members of ECHA bodies may be accompanied by advisers on scientific, technical or regulatory matters.

Invited experts are experts in technical or scientific fields who can, upon proposal of a member or the Secretariat and in agreement with the ECHA body or with the chairperson be invited by the Agency to participate for one or more points of the agenda in a meeting of the ECHA body or its working groups.

In addition, REACH foresees that Member States shall transmit to the Agency the names of experts who would be available to serve on working groups of the Committees.

This procedure applies in principle to all advisers and invited experts, however due to their specific role, they do not have the same personal duties as members besides the duty to make a specific declaration of interest at the meeting if such occurs.

Indeed, while advisers and invited experts may attend meetings of ECHA bodies, they do not usually do so on a regular basis, they do not hold a vote, nor take up any other formal role (e.g., rapporteurship) and therefore annual declaration of interest or other measures are not considered necessary.

However, under certain circumstances, e.g., where a working group of an ECHA body is on a more permanent basis staffed by advisers or invited experts, not being the formally appointed members of the ECHA body, the chairperson may decide to apply parts of this procedure (e.g., the duty to submit annual declarations of interest) in full to such advisers or invited experts. Such solutions have been put in place for instance for the permanent working groups of the Biocidal Products Committee and the RAC working group on the Drinking Water Directive.

Besides the option available in certain ECHA bodies to appoint alternate members (who have to comply with all duties under these procedures as other members), the rules of procedure may provide that the members, when prevented from attending a meeting, can

identify a person to attend the meeting on their behalf as invited expert or person of trust, without voting rights. Such persons shall also declare potential conflicts of interest before the start of the meeting, to be assessed by the chairperson.

Stakeholder observers

ECHA welcomes the attendance of observers of the stakeholder organisations at the meetings of the Committees, the Forum and informal ECHA expert groups and networks selected by the respective body, expert group or network. These stakeholder observers have to comply with the Code of conduct for observers at ECHA meetings ([ED-0035](#) of 18 December 2020).

Furthermore, the Rules of Procedure of an ECHA body may foresee the possibility to invite case owners or applicants to participate in a meeting or part of it as observers. As these case owner/applicant observers clearly are attending the meeting to defend the interests of their organisation in a particular dossier, it is unnecessary that they make a declaration of interest. Strict compliance with the applicable Code of conduct shall be enforced (see *ECHA Code of conduct for case owners of evaluation draft decisions as observers at meetings of the Member State Committee* ([ED/88/2022](#)) and *ECHA Code of conduct for applicants participating in the Biocidal Products Committee and its Working Groups* ([ED/104/2013](#)).

3. Description

All members of ECHA bodies have the duty to **declare** all competing interests held by them by submitting and keeping up-to-date an annual declaration of interest compliant with the form FOR-0039 and submitting any specific declaration as required (see chapter 3.1).

The chairpersons of the respective ECHA bodies have the duty to **assess** all competing interests declared and to put in place effective controls and to impose mitigating measures where such interest carry a risk of turning into *conflicts* of interest (see chapter 3.2).

3.1. Step 1: Declaring all possible competing interests

3.1.1. Before the mandate/employment

All candidates for a position in the Agency are thoroughly screened before appointment.

For the members of the ECHA bodies, the pre-recruitment screening is based on the generic exclusion criteria as described in chapter 3.2.1 and annex 2. For this purpose, candidates for appointment as members of an ECHA body for which the Management Board is the Appointing Authority (i.e. the Board of Appeal, the Risk Assessment Committee and the Committee for Socio-economic Analysis) shall be requested to complete a written declaration of interest (based on FOR-0039) following their placement on the list of candidates by the Commission or the nomination by their respective Member State. This should allow the Management Board to analyse the declarations made, in order to take an informed decision on each appointment. For the positions in ECHA bodies for which ECHA is not the Appointing Authority (membership in the Management Board, the Member State Committee, the Biocidal Products Committee and the Enforcement Forum), the same criteria are applied as *guidelines* to which the relevant Appointing Authorities are invited to adhere.

3.1.2. During the mandate/employment

Biographies

Due to the importance of ensuring transparency on their background, all members of the ECHA bodies shall provide the Agency with a biography, containing their professional qualifications and education, which shall be made public on the ECHA website.

The same duty shall apply for the Chairpersons of the ECHA Committees (MSC, RAC, SEAC, BPC).

Specific declarations

At each meeting the Management Board members and the members of the Committees and the Forum (and their advisors) and any experts participating in the meeting are explicitly asked by the chair to declare any interests which could be considered to be prejudicial to their independence with respect to any of the points on the agenda. Such conflicting interests are recorded in the minutes together with the specific mitigating measures imposed (see also chapter 3.2.2.) and made public.

When a Committee member is appointed as Rapporteur or Co-Rapporteur, he or she needs to make for each case a written declaration of absence of conflict of interest in line with Article 87(1) of the REACH Regulation. A member of a Committee is not appointed rapporteur for a particular case if he/she indicates any interest that might be prejudicial to the independent consideration of that case.

The members of the Board of Appeal are required to make an ad-hoc declaration for each specific case before the allocation of that case to them.

Annual declarations

Procedure

According to Article 88(2) of the REACH Regulation, all members of the Management Board and of the Committees and the Forum shall, when taking up their duties, make a written declaration of interest which could be considered to be prejudicial to their independence. Also all members of the Board of Appeal are required to make an annual declaration of interest in writing.

The initial declarations are renewed annually. The secretariat of the respective ECHA body is in contact with members in order to ensure that regular updates are provided. If at any point in time changes occur to the situation of the member's interests, he/she makes an updated declaration without delay.

The respective secretariat of the ECHA body shall publish the declarations of interest on the ECHA website.

Based on a decision by the chairperson, the same duty may apply to the core members of working groups established under the auspices of one of these ECHA bodies (if no annual declaration was already submitted/published for the same member).

Content

All interests that may interfere with the work of the Agency and its duty to take impartial and objective decisions in the public interest shall be declared. An affirmative answer in the annual declaration does not automatically disqualify the individual concerned, but requires the chair to have it screened in accordance with this Procedure, in order to determine if a conflict of interest exists.

Timeframe: all current interests and those that existed during the last 5 years. One should count 5 years from the date of submitting the declaration.

For interests held by close family members, investments and intellectual property rights, only current interests need to be declared.

Family ties: all current interests held by any members of the declarant's household (spouse, partner and dependent children, as well as other relatives under the care of the members of the household) should be declared.

The names of the members of the declarant's household do not need to be declared and the declaration shall be limited to the interests that the declarant is aware of to the best of his/her knowledge.

The regulatory field of activity of ECHA: all interest that may interfere with the work of the Agency shall be declared. This means that all interests in a commercial entity or other organisation which is subject to the authority of ECHA (i.e. duty-holders under any of the legislations under ECHA's mandate) or which has dealings with ECHA shall be declared.

Only direct interests in duty-holders are considered and not interests in (potential) competitors or (potential) co-registrants.

Confidential interests: when bound by a professional or contractual duty of secrecy, for instance with regard to former clients represented (e.g. as lawyer or consultant), one shall only declare the employment with the law firm or consultancy firm concerned. The declarant shall then proactively make a specific declaration of absence of conflict of interest, each time a task is assigned to him/her related to a former client operating in the regulatory field of activity of the Agency. In some instance also the identity of substances worked on can be considered confidential, in which case they do not need to be included.

Employment, consultancy, legal representation or advice

Employment is to be interpreted as covering all forms of employment (also self-employment), part-time and full-time, either paid or unpaid, in any organisation (profit or non-profit, public or private) whose activities fall within the regulatory field of activity of ECHA.

Consultancy, legal representation or advice within the regulatory field of activity of ECHA, regardless of whether they charge a fee or not, is to be considered as well. This also includes the provision of an expert opinion or testimony for a commercial entity or other organisation, as part of a regulatory, legislative or judicial process. Any contracts or collaborations with ECHA should also be specified. As stated above, the obligation to declare shall not prejudice any professional or contractual duty of secrecy with regard to the identity of (former) clients or substances worked on.

For members and invited experts of ECHA bodies, all current employment with a Member State Competent Authority shall also be covered.

Information about subsidiaries/parent companies of a former employer shall be declared, but only to the extent that such corporate links are known to the declarant.

Membership of a governing body, scientific advisory body or equivalent structure

Membership of a governing body is to be interpreted as any participation in the internal decision-making (e.g. board membership, directorship) of a public or private organisation or commercial entity operating in the regulatory field of activity of ECHA.

Participation in a scientific advisory body is to be interpreted as meaning that the person concerned is participating or has participated in the works of a scientific advisory body operating in the regulatory field of activity of ECHA with a right to vote on the outputs of that entity (e.g. voting on scientific output adopted by that entity).

For this purpose the fact of whether this activity is remunerated or not is irrelevant.

Other membership, affiliation or position

This shall include active membership of or involvement in any organisation relevant to the regulatory field of activity of ECHA, other than the above. This shall in particular concern membership of interest groups (i.e. organisations engaged in activities carried out with the objective of directly or indirectly influencing the formulation or implementation of policy and decision-making processes of the Agency). However, membership of a religious group, a political party, a trade union or comparable entity does not need to be declared. Scientific societies and similar professional associations, who are not active in regulatory advice or lobbying activities in the regulatory field of ECHA, are also excluded.

Active membership or involvement shall include the making of donations beyond the regular membership fee; active participation to events or other contributions to activities; active involvement in the internal working of the organisation; et cetera.

Public office or other positions should be interpreted as the holding of an office or other position, paid or unpaid, where the declarant represents interests or defends an opinion in the regulatory field of activity of ECHA.

Research funding

This includes any funding for research provided by a private or public entity, including grants, rents, sponsorships and fellowships and received in a personal capacity or via the research entity to which one belongs (as long as it is related to projects to which the declarant has or had direct links) and falling within the regulatory field of activity of ECHA. Non-monetary support is also envisaged (e.g. equipment, facilities, research assistants, paid travel to meetings, et cetera). The declarant is requested to specify the estimated value if possible.

Investments

A conflict of interest would arise if an individual working with ECHA were to handle a matter or otherwise take part in a decision-making process (including through consultation)

involving a commercial entity in which the person(s) concerned holds securities or otherwise has a financial interest.

Consequently, the Agency has decided that the holding of a current financial interest of more than 10,000 EUR per commercial entity is considered as such a substantial value that it should be declared. In addition and notwithstanding their financial value, holding of shares, stocks or comparable amounting to a voting right of 5 % or more in a company, should be declared. Several investments in the same commercial entity made by different persons in the same household shall be counted together for calculating the threshold. However, several investments in different companies are not counted together for calculating the threshold. Interests below the threshold are to be declared on a voluntary basis. In view of frequent changes in the price value of such investments one shall update the declaration when the price has been fixed for a certain period of time above the threshold. The declarant is requested to specify the estimated value at the time of submission.

The term 'financial interest' or 'investment' shall mean any financial interest in undertakings which are subject to the authority of ECHA or which have dealings with ECHA, including the holding of stocks and shares, stock options, equity, bonds, and/or partnership interest in the capital of such an undertaking. This includes 'financial interests' or 'investments' in a subsidiary of the said undertaking or in a commercial entity in which the said undertaking holds capital.

Partnerships in law-firms or other managerial stakes are to be considered as well, if not already covered under one of the other sections.

However, the holding of financial interest through an investment fund, pension fund and/or interests in non-nominal unit trusts or similar arrangements would not, in principle, need to be declared, provided that these investments are broadly diversified and the individual has no influence on their financial management.

Intellectual property

These are the rights granted to creators and owners of works that are the result of human intellectual creativity and that pertain to a domain falling within the regulatory field of activity of ECHA. These can be publications or can be in the industrial, scientific and artistic domain. They can be in the form of an invention, a manuscript, a suite of software, or a business name (e.g. copyrights, trademarks, patents, et cetera). Proprietary know-how in a substance, technology or process can also be relevant. The declarant is requested to specify the estimated value at the time of submission if possible.

Other relevant information

In addition to the interests above, a declarant should declare any other interest or fact that might prejudice their independence. These other elements may for instance include:

- relevant interests held beyond the past 5 years;
- close personal relationships (such as those with adult offspring, non dependent parents or siblings, close personal friendships, et cetera) and interests held by such individuals;
- the delivery of speeches or training for a commercial entity or other organisation with an interest in the regulatory field of activity of ECHA, regardless of whether any payment was provided;

- continuing rights of return to previous employment or positions and standing offers or agreements about future employment;
- gifts received exceeding 50 EUR (including travel, hospitality or other forms of valuable benefit).

3.2. Step 2: Effective controls for preventing conflicts of interests: applying cooling off periods

Based on the annual and specific declarations, the chairpersons of the respective ECHA bodies have the duty to **assess** all competing interests declared and to put in place effective controls and to **impose mitigating measures** where such interests carry a risk of turning into *conflicts* of interest.

3.2.1. Assessment criteria

Generic exclusion criteria applicable for key positions

For certain key positions for which ECHA is the Appointing Authority, it has adopted generic exclusion criteria (see annex 2) with which candidates have to comply to be considered for appointment, including for the position of:

- Chairperson of the Member State Committee, Committee for Risk Assessment and Committee for Socio-economic Analysis;
- Member of the Agency's Board of Appeal;
- Member of the Committee for Risk Assessment;
- Member of the Committee for Socio-economic Analysis.

For the positions for which ECHA is not the Appointing Authority the same criteria are applied as guidelines (see annex 2) to which the relevant Appointing Authorities are invited to adhere:

- Member of the Management Board (with the exception of the Commission when appointing the three Management Board members to represent interested parties)
- Member of the Member State Committee;
- Member of the Biocidal Products Committee;
- Member of the Enforcement Forum.

Specific restrictions applicable to all members of ECHA bodies

Certain competing interests declared do not lead to a generic exclusion from appointment, but may lead to a specific restriction from the voting in the decision making of the Agency for a specific commercial entity or substance for a period of up to five years. On this basis, an overview of the allowable and non-allowable interests is presented in annex 1.

Employment

Members of the ECHA bodies who have been employed by or had another professional relationship (e.g. consultancy or legal advice) with a commercial entity, shall not be able to participate in the voting of opinions or decisions which create or modify legal rights or obligations of that commercial entity for a period of five years counted from the end of the employment or other professional relationship.

Membership of governing boards and permanent scientific advisory bodies

Members of the ECHA bodies who have been member of a governance board or permanent scientific advisory body of a commercial entity, shall not be able to participate in the voting of opinions or decisions which create or modify legal rights or obligations of that commercial entity for a period of five years counted from the end of the membership.

Investments and intellectual property

Members of the ECHA bodies who hold current investments above 10.000 EUR (or giving right to 5% or more of voting rights) in a specific commercial entity or intellectual property in a specific commercial entity manufacturing, importing or supplying substances or mixtures subject to the authority of the Agency, shall not be able to participate in the voting of the opinion- or decision making with regard to that substance or commercial entity for as long as the investment or intellectual property is kept.¹

Research funding

Members of the ECHA bodies who receive any research funding above 25% of the total research budget from a specific commercial entity shall not be able to participate in the voting of opinions or decisions which create or modify legal rights or obligations of that commercial entity for a period of five years counted from the end of the funding.

Other competing interests declared

Other competing interests declared are assessed case by case and mitigating measures and ad hoc restrictions to participate in the decision making are imposed by the chairperson of the respective ECHA body.

Expert witnesses

As an exception to the rules laid down above, it may be possible that the specific expertise of an expert is required despite the risk of a potential (perceived) conflict of interest, e.g. due to the very specific expertise required or the unavailability of other experts. In such cases, the member of an ECHA body concerned shall not participate to the voting on the opinion or decision, but may be heard as an expert witness.

¹ For the members of the ECHA bodies, the ECHA management, the Accounting Officer and the Chairpersons of the Committees, current investments above 10.000 EUR (or giving right to 5% or more of voting rights) are even generic cooling off criteria (exclusion criteria) that prevent appointment.

It is to be noted however, that a zero tolerance policy for financial investments would not be feasible for ECHA due to the fact that chemicals are everywhere and any manufacturing company is a potential downstream user of chemicals and thus a potential duty holder towards the Agency, e.g. going from shoe manufacturers to furniture to cars. The ECHA threshold is aligned with Commission decision C(2016)3301 final of 30.5.2016 establishing horizontal rules on the creation and operation of Commission expert groups.

3.2.2. Identifying risk levels and mitigating measures for competing interests declared

Board of Appeal (see also *Work Instruction (WIN-BOA-010) Conflict of Interests checks*)

The annual declarations of the Board of Appeal members are monitored by its Chair. The Chairman's declarations are monitored by the longest serving member of the Board of Appeal.

Specific, case-related declarations by a member of the Board of Appeal are assessed by the other Board of Appeal members, who shall decide as to the action to be taken.

If a member of the Board of Appeal considers that because of a conflict of interests he/she must not take part in the specific legal proceedings, he/she shall inform the Board of Appeal accordingly. The Chairman may replace that member by an alternate.

Likewise, members of the Board of Appeal may be objected to by any party to the appeal proceedings on the grounds of possible conflicts of interest. In this situation, the Board of Appeal shall decide as to the action to be taken without the participation of the member concerned. For the purpose of taking this decision, the member concerned shall be replaced by an alternate (*see Article 90(5)-(7) of the REACH Regulation*).

Management Board, Committees and Forum

Members who have not submitted the annual declaration of interest shall not take part in meetings of the ECHA body and its working groups or decisions by written procedure.

Upon receipt of the annually updated declaration of (competing) interests, the chairperson of each ECHA body, with the assistance of the ECHA secretariat, shall identify one of the below risk levels for each of the competing interests declared by the members of his/her respective ECHA body:

- A ("interest cleared"): no competing interests declared or cleared as not relevant to the work of respective ECHA body

When no competing interests are declared at all or the declared competing interest is classified as not relevant to the work of the respective ECHA body, e.g. because it falls outside the regulatory field of activity of ECHA, it is given the risk level A.

All interests declared in a public organisation (body established under public law of a Member State serving a public interest) that is solely financed with public resources shall also be given the risk level A.

Mitigating measures: None. All competing interests that receive the risk level A are considered as not relevant and it clears the respective expert to work on any task assigned to the respective ECHA body, unless he/she has other competing interests that are classified with a B or C risk level.

However, public sector experts that have earlier contributed to the same case at Member State level may be at risk of being put in a position of **conflict of opinion** when asked by ECHA to review this earlier work. Therefore, members of the ECHA bodies may, where appropriate, be asked to refrain from voting on proposals for opinion or decision that they

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have contributed to themselves or that are otherwise stemming from the Member State that has nominated or appointed them.

- B ("interests require ad hoc assessment"): competing interest may be relevant to the work of the respective ECHA body under certain specific circumstances

For competing interests declared in the field of "research funding" below 25% of the total research budget; interests in "interest groups"; "other membership, affiliation or position"; "other relevant information" and "interests held by close family members" the identification of potential conflicts of interest can only be performed ad hoc, depending on the exact details and circumstances of the case.

Mitigating measures: the competing interests covered by this risk level have to be reviewed before each meeting against the agenda of such meeting and/or declared ad hoc by the experts themselves in a specific oral declaration at the start of each meeting (recorded). Depending on the exact details and circumstances of the case and based on the following criteria, a decision is made by the chairperson on the possible application of an ad hoc restriction:

- Direct interest (e.g. in the company/substance concerned) or indirect interest (e.g. interest of spouse, interest in competitor substance, interest is sector-wide but not related to one company, etc.);
- Amount/percentage of the research funding (below 25%) stemming from a party with an interest in the outcome of the regulatory processes of ECHA;
- Relevance of the membership, affiliation or position for the regulatory activity under discussion;
- Role of the individual concerned in the regulatory process;
- Etc.

When a restriction is applied, the chairperson shall decide on the appropriate level of participation. This applies accordingly for the cases of written procedures in ECHA bodies. As a minimum, such person shall not participate in any voting on the relevant agenda point (see Article 88(3) of the REACH Regulation). Such person shall also not transfer his/her voting right by proxy to another member. This does not preclude the replacement by an alternate. The member concerned shall also not be appointed as (co-)rapporteur for a particular case if he/she indicates any conflicting interests (see Article 87(1) of the REACH Regulation).

Additionally, where further steps are deemed necessary, the chair shall at least have at his/her disposal any of the following instruments to mitigate the issue:

- The member concerned can participate in the discussions but shall not participate in the final deliberations on the relevant agenda point;
- The member concerned shall not participate in the discussions or final deliberations on the relevant agenda point;
- The member concerned is to leave the room for the duration of the relevant agenda point;
- The member concerned shall participate only as an expert witness in order to testify and give specialist advice on a specific issue by providing information and replying to any questions;
- In the case that an alternate can be appointed in the pertinent ECHA body, the member concerned may be replaced by his/her alternate for the relevant agenda point;

- Where the Chair is concerned, he/she is to be replaced for the relevant agenda point.
- C ("interest leads to specific restriction"): competing interest covered by a specific cooling off period

When the declared competing interest is covered by one of the specific restrictions described under chapter 3.2.1. above, it is given the risk level C.

Mitigating measures: for the competing interest covered by such a specific cooling off period, the expert cannot vote in the opinion- or decision making on this specific substance or company for a duration of five years.

For the competing interests declared orally at the beginning of a meeting, on the basis of the type and nature of the potential conflict identified, the chairperson shall decide on the appropriate level of participation, based on the same criteria and using the same instruments as indicated above for interests with risk level B.

3.2.3. Mitigating measures for conflicts of interest of a general nature and breach of trust

Any false declaration, wilful omission or refusal to declare interests or any other failure to comply with this procedure may be seen as a breach of trust towards the Agency. The same applies for any persistent conflict of interest which seriously hampers the functioning of the ECHA body.

The respective chair of the ECHA body shall inform the Executive Director of the Agency of any suspected breach and can decide on remedial actions. In case the remedial actions do not bring the expected outcome, the chair in consultation with the Executive Director shall send a formal notification to the Appointing Authority² stating the nature of the problem.

The respective Appointing Authority is responsible for adopting any formal decision as a consequence of a (potential) conflict of interest when they are informed of a situation which may be detrimental to the Agency. Such decision may vary from a letter of reprimand to the request or duty to resign or the revocation of the nomination / appointment. The nominating authority shall be consulted before any such formal decision is taken.

The members of the Board of Appeal may not be removed from office unless there are serious grounds and only by decision of the Commission, after obtaining the opinion of the Management Board.

² For the Management Board the appointing authority is either the Council of the European Union (for the members nominated by the Member States), the Commission or the Parliament (Article 79 of the REACH Regulation). The appointing authority for the Member State Committee, the Biocidal Products Committee and the Forum are the respective Member States (Articles 85(3) and 86 of the REACH Regulation and Article 75(2) of the BPR), while for the Board of Appeal, the Committee for Risk Assessment and the Committee for Socio-economic Analysis the appointing authority is the ECHA Management Board or the Committee in the case of co-opted members.

In case the Executive Director is not satisfied with the remedies put in place by the chair or by the Appointing Authority, he/she shall inform the ECHA body concerned of this fact in its next meeting and have it noted in the minutes of the meeting.

Anyone affected by a decision of the chair of an ECHA body to implement remedial actions can request the Chair of the Management Board for a review of such decision. The Chair of the Management Board, in consultation with the Executive Director, shall decide on the follow-up, with the possibility to consult the Conflicts of Interest Advisory Committee.

3.3. After the end of the mandate/employment

Post-employment declarations

Members of the ECHA bodies, staff members of the Agency, members of networks or expert groups, observers and third parties working with the Agency shall be required, even after their duties have ceased, not to disclose information of the kind covered by the duty of professional secrecy (*see e.g. Article 105 of the REACH Regulation*).

If a member of an ECHA body intends to be engaged (either solicited or not) in occupational activities (employment, consultancy, membership of a governing or permanent scientific advisory board) during the term of the mandate the member shall immediately inform the chairperson and secretariat of the respective ECHA body. This duty applies (irrespective if a contract has already been signed or not and the activity is paid or unpaid and applies to occupational activities, with a commercial entity with an interest in the regulatory field of activity of the Agency or an association or other body (except a body established under public law of a Member State serving a public interest) which can be considered as an interest group with an interest in the field of chemicals management. Taking into account also the generic exclusion criteria (*see chapter 3.2.1.*), the Agency will then fully restrict the member from further involvement in the activities of the ECHA body from the date of notification. The Appointing (and nominating) Authority will be informed by the Agency that the member can no longer be involved in the activities of the ECHA body.

3.4. Additional controls

Ex-post controls

The respective secretariat of each ECHA body shall verify the completeness of the annual declarations submitted by the members of the ECHA bodies and may undertake sample checks to guarantee their accuracy and veracity.

On a regular basis the ECHA Secretariat shall undertake a number of ex-post reviews of conflict of interest checks performed. To that end, it shall verify for a number of randomly selected case files whether conflict of interest checks were performed according to this procedure and its implementing rules.

An ex-post review shall be mandatory with regard to the concerned case file(s) when an actual conflict of interest is discovered. Similarly, if the person concerned by an established breach of trust was involved in an opinion- or decision-making procedure, the Agency may carry out an ex-post review of the person's activities and contributions to the Agency's output.

3.5. Further implementation

As the legal representative of the Agency and responsible for the daily management of the Agency, the Executive Director shall adopt implementing rules to this procedure, containing the detailed rules for preventing and handling conflicts of interest. He/she shall regularly report on the implementation of the procedure to the Management Board and in the annual activity report of the Agency.

The ECHA bodies shall include detailed provisions for the implementation of this procedure into their respective Rules of Procedures, Codes of Conduct and working procedures. Where necessary and if applicable, the chair may decide to impose the same requirements on the regular members of working groups established by the respective ECHA bodies.

4. Flowchart

N/A

5. Definitions

Term or abbreviation	Definition
"Active" membership of or affiliation to an organisation	Active membership of or involvement in any organisation relevant to the regulatory field of activity of ECHA, other than a governing body or scientific advisory body. This shall in particular concern membership of interest groups (i.e. organisations engaged in activities carried out with the objective of directly or indirectly influencing the formulation or implementation of policy and decision-making processes of the Agency). However, membership of a religious group, a political party, a trade union or comparable entity does not need to be declared. Scientific societies and similar professional associations, not engaged in lobbying activities, are also excluded. Active membership or involvement shall include the making of donations beyond the regular membership fee; active participation to events or other contributions to activities; active involvement in the internal working of the organisation; et cetera.
Breach of trust	Any false declaration, wilful omission or refusal to declare interests or any other failure to comply with the agency's conflict of interest policy.
Close family members	The persons forming a household with the person making the declaration of interest (i.e. spouse, partner, and/or dependent children, as well as other relatives under the care of the members of the household).
CoIAC	Conflicts of Interest Advisory Committee
Commercial entity	Includes any commercial business, consultancy, research institute or other enterprise, whose funding is significantly derived from commercial sources. It also includes independent own commercial businesses, law offices, consultancies or other.

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Term or abbreviation	Definition
Conflict of interest	<p>There is a conflict of interest where the impartiality and objectivity of a decision, opinion or recommendation of the Agency, including its bodies, is or might in the public perception be compromised by an interest held by, or entrusted to, an individual working for the Agency.</p> <p>More specifically, this means that a conflict of interest can arise if private interests of those involved in the activities of ECHA interfere with the work of the Agency and its duty to take impartial and objective decisions in the public interest. A conflict of interest situation can also exist if personal interests are perceived by others as interfering with the work of ECHA and, thus, undermining the public's trust in the integrity of the Agency and its work.</p> <p>According to Article 61 of the EU Financial Regulation a conflict of interests exists where the impartial and objective exercise of the functions of a financial actor or other person is compromised for reasons involving family, emotional life, political or national affinity, economic interest or any other direct or indirect personal interest.</p>
ECHA body	The ECHA bodies shall include the Management Board, the Member State Committee, the Risk Assessment Committee, the Committee for Socio-economic Analysis, the Biocidal Products Committee, the Enforcement Forum and the Board of Appeal.
ECHA Secretariat	The ECHA Secretariat works under the leadership of the Executive Director and provides technical, scientific and administrative support for the Committees and the Forum and ensures appropriate coordination between them. It shall also undertake the work required of the Agency under the procedures for pre-registration, registration and evaluation as well as preparation of guidance, database maintenance and information provision (Article 76(1)(g) of the REACH Regulation).
Employment, consultancy, legal representation or advice	<p>All forms of employment (also self-employment), part-time and full-time, either paid or unpaid, in any organisation (profit or non-profit, public or private) whose activities fall within the regulatory field of activity of ECHA.</p> <p>Consultancy, legal representation or advice within the regulatory field of activity of ECHA, regardless of whether they charge a fee or not, is to be considered as well.</p>
Intellectual property	These are the rights granted to creators and owners of works that are the result of human intellectual creativity and that pertain to a domain falling within the regulatory field of activity of ECHA. These can be publications or can be in the industrial, scientific and artistic domain. They can be in the form of an invention, a manuscript, a suite of software, or a business name (e.g. copyrights, trademarks, patents, et cetera). Proprietary know-how in a substance, technology or process can also be relevant.
Investment	Any financial interest in undertakings which are subject to the authority of ECHA or which have dealings with ECHA, including the holding of stocks and shares, stock options, equity, bonds, and/or partnership interest in the capital of such an undertaking. This

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Term or abbreviation	Definition
	<p>includes 'financial interests' or 'investments' in a subsidiary of the said undertaking or in a commercial entity in which the said undertaking holds capital.</p> <p>Partnerships in law-firms or other managerial stakes are to be considered as well.</p> <p>However, the holding of financial interest through an investment fund, pension fund and/or interests in non-nominal unit trusts or similar arrangements would not, in principle, need to be declared, provided that these investments are broadly diversified, and the individual has no influence on their financial management.</p>
Membership of a governing body or equivalent structure	<p>Any participation in the internal decision-making (e.g. board membership, directorship) of a public or private organisation or commercial entity operating in the regulatory field of activity of ECHA.</p> <p>For this purpose, the fact of whether this activity is remunerated or not is irrelevant.</p>
Membership of a scientific advisory body or equivalent structure	<p>Any participation in the works of a scientific advisory body operating in the regulatory field of activity of ECHA with a right to vote on the outputs of that entity (e.g. voting on scientific output adopted by that entity).</p> <p>For this purpose, the fact of whether this activity is remunerated or not is irrelevant.</p>
Organisation	<p>Governmental, international and non-profit organisations active in the regulatory field of activity of ECHA, as well as interest groups (i.e. organisations and self-employed individuals engaged in activities carried out with the objective of directly or indirectly influencing the formulation or implementation of policy and decision-making processes of the Agency.</p>
Process owner	<p>A process owner is a person (staff member of the ECHA Secretariat) designated by the Executive Director, responsible for the efficient and effective functioning of the process and has the necessary authority to take action or make decisions with an impact on the process performance. In general, the process owner ensures that proper action is taken with respect to the implementation, maintenance, control and improvement of the process.</p>
Research funding	<p>Any funding for research provided by a private or public entity, including grants, rents, sponsorships and fellowships and received in a personal capacity or via the research entity to which one belongs (as long as it is related to projects to which the declarant has or had direct links) and falling within the regulatory field of activity of ECHA.</p> <p>Non-monetary support is also envisaged (e.g. equipment, facilities, research assistants, paid travel to meetings, et cetera).</p>

6. Records

Record name	Security level	Comments
Declarations of interest and commitment of members of ECHA bodies	Public	
Declaration of confidentiality of members of ECHA bodies	Restricted	
Specific declarations of interest related to a point on the agenda of a meeting of an ECHA body, as recorded in the minutes	Public	

7. References

Associated document code	Document name
Regulation (EC) No 771/2008	Commission Regulation (EC) No 771/2008 of 1 August 2008 laying down the rules of organisation and procedure of the Board of Appeal of the European Chemicals Agency
Management Board Decision 10/2021, ref. MB/10/2021	Rules of Procedure for the Committee for Risk Assessment
Management Board Decision 11/2021, ref. MB/10/2021	Rules of Procedure for the Committee for Socio-economic Analysis
MB/33/2020 final	Rules of Procedure for the Management Board
Management Board Decision 09/2021, ref. MB/10/2021	Rules of Procedure for the Member State Committee
MB/25/2013 final	Rules of Procedure for the Biocidal Products Committee
MB/34/2020 final	Rules of Procedure for the Forum for Exchange of Information on Enforcement
ED-0035.01	Code of conduct for observers at ECHA meetings
MB Decision 22/2023, ref. doc. MB/19/2023	Code of Conduct of the Management Board
ED/08/2013	General Principles and Guidance for Committee Members of the European Chemicals Agency
ED/43/2013	General Principles and Guidance for members of the Forum for Exchange of Information on Enforcement of the European Chemicals Agency
ED/88/2022	ECHA Code of conduct for case owners of evaluation draft decisions as observers at meetings of the Member State Committee (MSC)

Associated document code	Document name
ED/104/2013	Code of conduct for applicants participating in the Biocidal Products Committee and its Working Groups
BoA/01/2018	Code of conduct of the members of the Board of Appeal of the European Chemicals Agency as regards its alternate and additional members
BoA/01/2023	Code of conduct of the members of the Board of Appeal of the European Chemicals Agency who are staff of the Agency

8. Annexes

Annex 1 – Overview of allowable and non-allowable interests

Annex 2 – Generic exclusion criteria for key positions

Annex 1 – Overview of allowable and non-allowable interests

Full exclusion applied (before appointment/employment)
Specific restriction applied for 5 years for specific company concerned (during mandate/employment)
Allowable interests: no exclusion nor restriction
Interests subject to case-by-case assessment

External experts			ECHA staff	
Management Board members	Committees and Forum members	Additional and alternate members of the Board of Appeal	Regular members of the Board of Appeal – ECHA managers – Accounting Officer – Committee chairpersons	Other ECHA staff
Non-allowable interests				
Current employment (in a position of relevant importance) by, or holding a position in a governing body or permanent scientific advisory body (whether paid or unpaid) of, a commercial enterprise with an interest in the regulatory field of activity of the Agency.			Under the Staff Regulations for EU officials, all ECHA staff members have to receive the approval of the appointing authority for any outside activity or assignment, regardless whether the activity is paid or unpaid.	
Current active membership of, or employment by (in a position of relevant importance), an association or other body (except a body established under public law serving a public interest) which can be considered an interest group with an interest in the field of chemicals management.				
Current personal contractual obligations to perform work for a commercial entity or an interest group with an interest in the regulatory field of activity of the Agency.				
Current investments above 10.000 EUR (or giving right to 5% or more of voting rights) in a commercial entity manufacturing, importing, supplying or placing on the market substances or mixtures subject to the authority of the Agency.			Current investments above 10.000 EUR (or giving right to 5% or more of voting rights) in a commercial entity (with regard to that commercial entity for as long as the investment is kept)	
Past employment by (in a position of relevant importance), or holding a position in a governing body or permanent scientific advisory body (whether paid or unpaid) of, a commercial enterprise with an interest in the regulatory field of activity of the Agency within the past two years when the individual concerned has a potential conflict of interest of a general nature that would lead to multiple exclusions of the individual from the meetings of the ECHA body concerned, from rapporteurship or from the decision-making of the Board of Appeal.				

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<p>Past active membership of, or employment by, an association or other body (except a body established under public law serving a public interest) which can be considered an interest group with an interest in the field of chemicals management within the past two years when the individual concerned has a potential conflict of interest of a general nature that would lead to multiple exclusions of the individual from the meetings of the ECHA body concerned, from rapporteurship or from the decision-making of the Board of Appeal.</p>	
	<p>For candidates for the position of Accounting Officer, Executive Director or member of the Board of Appeal:</p> <p>Close family relationship with any of the persons currently occupying one of these same positions or of the position of member of the Management Board or Executive Director or senior manager (Director) at ECHA.</p>
<p>Past employment or another professional relationship (e.g. consultancy or legal advice) with a commercial entity for a period of five years counted from the end of the employment or other professional relationship (with regard to opinions or decisions which create or modify legal rights or obligations of that commercial entity)</p>	
<p>Past membership of a governance board or permanent scientific advisory body with a commercial entity for a period of five years counted from the end of the membership (with regard to opinions or decisions which create or modify legal rights or obligations of that commercial entity)</p>	
<p>Current intellectual property in a specific commercial entity or substance (with regard to that substance or commercial entity for as long as the intellectual property is kept)</p>	
<p>Research funding above 25% of the total research budget received from a specific company for a period of five years counted from the end of the funding (with regard to opinions or decisions which create or modify legal rights or obligations of that commercial entity)</p>	
<p>Allowable interests</p>	
<p>Interests outside the regulatory field of activity of ECHA, with no restrictions.</p>	
<p>Past interests, for which a period of 5 years or more has passed, with no restrictions.</p>	
<p>Current and past employment by, or holding a position in a governing body or permanent scientific advisory body (whether paid or unpaid) of, a public organisation (including e.g. national competent authorities).³</p>	
<p>Current investments below 10,000 EUR per commercial entity, with no restrictions (except if these investments would amount to voting rights of 5% or more in such commercial entity).</p>	
<p>Current non-active membership/affiliation or past active membership/affiliation in an organisation relevant to the regulatory field of activity of ECHA for which a period of five years has passed, with no restrictions. Current and past active membership or affiliation in organisations not relevant to the regulatory field of activity of ECHA, with no restrictions.</p>	

³ This includes organisations solely financed with public resources. However, experts that have earlier contributed to the same case at Member State level may be at risk of being put in a position of **conflict of opinion** when asked by ECHA to review this earlier work. Therefore, members of ECHA bodies may, where appropriate, be asked to refrain from voting on proposals for opinion or decision that they have contributed to themselves or that are otherwise stemming from the Member State that has nominated or appointed them.

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Past interests of members of the same household, with no restrictions.

Interests subject to a case-by-case analysis, taking into account all the specific elements of the case

All current and past interests related to **research funding below 25%, memberships, affiliation and positions and close personal relationships** (beyond those with the members of household).

Annex 2 – Generic exclusion criteria for candidates for membership in the ECHA bodies and for key positions in the ECHA Secretariat⁴

Group 1: Candidates for membership in the Committee for Risk Assessment, the Committee for Socio-economic Analysis or additional or alternate members of the Board of Appeal have to comply with the generic exclusion criteria a) -e) (and for some positions also criteria f)) below to be considered for appointment by the Management Board.

Group 2: For the candidates for membership in the Management Board, the Member State Committee, the Biocidal Products Committee, the Enforcement Forum (group 2), with the exception of the Commission when appointing the three Management Board members to represent interested parties, the relevant appointing authorities are invited to respect the ECHA Conflict of Interest Policy and to adhere to the below guidelines for exclusion a) – e) when appointing members to such ECHA bodies.

Group 3: candidates for the position of Chairmen of the ECHA Committees (MSC, RAC, SEAC, BPC), Accounting Officer or for the position of Executive Director, Director, Head of Unit or full-time member of the Board of Appeal have to comply with the generic exclusion criteria d) – e) (and for some positions also criteria f)) below to be considered for appointment. The first three criteria a) -c) are not relevant for the candidates for the above positions and do not apply, as they become ECHA staff members and they will have to comply with the Staff Regulations for EU officials, and in particular the obligation to receive the approval of the appointing authority for any outside activity.

- a. Candidates being currently employed by (in a position of relevant importance), whether paid or unpaid, a commercial entity with an interest in the regulatory field of activity of the Agency or an association or other body (except a body established under public law of a Member State serving a public interest) which can be considered as an interest group with an interest in the field of chemicals management shall not be appointed. Appointed members of the Committees of the Agency shall resign from the Committee before they enter into service in any such enterprise.
- b. Candidates being an active member of, or holding a position in a governing body or permanent⁵ scientific advisory body of a commercial entity with an interest in the regulatory field of activity of the Agency or an association or other body (except a body established under public law of a Member State serving a public interest) which can be considered as an interest group

⁴ The scope of the generic exclusion criteria shall be limited to duty-holders and interest groups subject to the authority of ECHA or active in the regulatory field of activity of ECHA as appropriate taking into account the mandate of the respective ECHA body. The generic exclusion criteria apply equally to the interests held by members of the candidates' household if significant interests are at stake that would potentially lead to multiple exclusions of the candidate from the meetings of the ECHA body, the decision making of the Agency or from rapporteurship.

⁵ As opposed to ad hoc or temporary project boards

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with an interest in the field of chemicals management shall not be appointed. Appointed members shall resign from the Committee before they enter into service in any such association.

- c. Candidates who personally have contractual obligations to perform work for a commercial entity or interest group with an interest in the regulatory field of activity of the Agency after having been appointed as members, shall (a) withdraw from current contracts and (b) refrain from entering into any new contracts with such commercial entities or organisations.
- d. Candidates who currently hold investments above 10.000 EUR in a commercial entity manufacturing, importing or supplying substances or mixtures subject to the authority of the Agency, including holding of stocks and shares, stock options, equity, bonds, partnership interest in the capital of such undertaking, one of its subsidiaries or a company in the capital of which it has a holding or entitling to a voting right of 5% or more in such commercial entity, shall not be appointed. This is without prejudice to financial interests held through an investment fund, pension fund and/or interests in non-nominal unit trusts or similar arrangements, provided that these investments are broadly diversified, and the candidate has no influence on their financial management.
- e. Candidates who were within the past two years employed by (in a position of relevant importance), or held a position in a governing body or permanent scientific advisory body (whether paid or unpaid) of a commercial entity with an interest in the regulatory field of activity of the Agency or an association or other body (except a body established under public law of a Member State serving a public interest) which can be considered as an interest group with an interest in the field of chemicals management (or an active member thereof) shall not be appointed when the candidate has a potential conflict of interest of a general nature that would potentially lead to multiple exclusions of the individual from the meetings of the ECHA body, the decision making of the Agency or from rapporteurship.
- f. Candidates for the position of Accounting Officer or Executive Director, who are close family members⁶ of any of the persons currently occupying one of these same positions or of a member of the Management Board or a senior manager (Director) at ECHA, shall not be appointed.

Candidates for the position of member of the Board of Appeal, who are close family members of the persons occupying the position of Executive Director,

⁶ Close family members are persons forming a household with the person making the declaration of interest (i.e. spouse, partner, and/or dependent children, as well as other relatives under the care of the members of the household).

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senior manager (Director) at ECHA or of a member of the Management Board, shall not be appointed.